

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION**

ANNIE MASON BENSON,

Plaintiff,

Case No. 8:10-CV-00497-JMC

VS.

SALLIE MAE, INC.

Defendant.

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR EXTENSION OF TIME
FOR FILING AFFIDAVITS OF RECORDS CUSTODIANS AND REQUEST
REGARDING CONFERRAL**

Defendant Sallie Mae, Inc. (“Sallie Mae”), by counsel, hereby files its Response to Plaintiff’s Motion for Extension of Time for Filing Affidavits of Records Custodians, and states as follows:

1. On May 4, 2010, the Court entered its Scheduling Order, requiring parties to file affidavits of records custodians on or before September 30, 2010. (Docket No. 10).
2. On September 29, 2010, Defendant filed an affidavit pursuant to the Court's scheduling order. (Docket No. 22).
3. In the afternoon of September 29, 2010, Plaintiff's counsel contacted Defendant to inquire whether Defendant would agree to an extension of the affidavit of records custodian filing deadline. Defendant's counsel informed Plaintiff's counsel that, although it was late in the day, Defendant's counsel would contact Defendant's representative to determine whether Defendant consented to the extension.

4. Plaintiff sought to extend the deadline, by forty (40) days, to November 10, 2010, allowing only nineteen (19) days until the close of discovery on November 29, 2010, to conduct any follow-up discovery needed to respond to the abovementioned affidavits.

5. Later in the evening of September 29, 2010, Plaintiff's counsel filed the instant Motion, before Defendant had responded to her request for an extension.

6. Defendant, if given the opportunity to respond, would have taken the position that some extension was appropriate to file affidavits of record custodians, but would have suggested that the deadline fall thirty (30) days before the close of discovery. Defendant would have been willing to engage in further negotiation from that starting point, if necessary.

7. The last-minute request for an extension before the filing of this Motion continues a pattern of such last-minute requests by Plaintiff's counsel. The eleventh-hour nature of these requests deprives Defendant of the opportunity to engage in any meaningful conferral; indeed, Defendant's counsel often cannot even reach the client in the few hours allowed. This does not comply with the spirit of Local Rule 7.02, requiring the parties to confer before non-dispositive motions are filed. In the interest of conducting a meaningful meet-and-confer process, Defendant respectfully requests that Plaintiff provide a reasonable period of time in light of the issue being addressed, but in no event less than twenty-four (24) hours, for Defendant to consider, and respond to, a request for conferral before filing any motion.

{Signature follows on next page}

Dated this 7th day of October, 2010.

Respectfully submitted,

By: s/ Peter B. Murphy
Peter B. Murphy (Fed. I.D. #9917)

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Attorneys for Defendant Sallie Mae, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October, 2010, I electronically filed the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR EXTENSION OF TIME FOR FILING AFFIDAVITS OF RECORDS CUSTODIANS AND REQUEST REGARDING CONFERRAL** with the Clerk of Court using the CM/ECF system, and that a copy has been electronically served via CM/ECF on

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